

# CONNECTICUT GENERAL ASSEMBLY

Thursday, February 5, 2015

TESTIMONY OF Kim K. V. McClain  
TO THE INSURANCE COMMITTEE

**TESTIMONY IN OPPOSITION OF RAISED BILL No. 5588 - AN ACT  
CONCERNING THE LIABILITY OF UNIT OWNERS FOR CERTAIN COSTS  
UNDER THE CONDOMINIUM ACT AND  
THE COMMON INTEREST OWNERSHIP ACT**

Good afternoon Senator Crisco, Representative Megna, Senator Hartley, Representative Zoni, Senator Kelly, Representative Sampson and members of the Insurance and Real Estate Committee. We appreciate the opportunity to submit testimony on behalf of the Community Associations Institute – Connecticut Chapter.

I currently serve as the Executive Director of the Connecticut Chapter of the Community Associations Institute (CAI-CT). The Community Associations Institute (CAI), is a national member supported, not-for-profit educational and resource organization dedicated to fostering vibrant, competent, harmonious community associations for the 1 in 6 Americans who live in common interest communities. I am here to speak on behalf of our nearly 1,000 members in Connecticut.

CAI's mission is to inspire professionalism, effective leadership and responsible citizenship—ideals reflected in communities that are preferred places to call home. CAI believes homeowner and condominium associations should strive to exceed the expectations of their residents. We work toward this goal by:

- Advancing excellence through seminars, workshops, conferences and education programs, most of which lead to professional designations for community managers and other industry professionals.
- Publishing the largest collection of resources available on community association management and governance, including website content, books, guides, *Common Ground* magazine and specialized newsletters.
- Advocating on behalf of community association and industry professionals before legislatures, regulatory bodies and the courts.
- Conducting research and serving as an international clearinghouse for information, innovations and best practices in community association governance and management.

We oppose HB 5588 as it inherently creates an uneven playing field for owner investors versus the common interest community as a whole.

When the Common Interest Ownership Act (CIOA) was revised by this body in 2009, common interest communities were enabled to create maintenance standards. These standards provide an opportunity to communicate to unit owners their individual responsibilities for maintaining their units. The goal of having maintenance standards is to help keep costs down for the community in terms of insurance losses. If a unit owner fails to follow the required maintenance standards and a loss occurs, the owner is held accountable for the uninsured expense.

In most situations, the uninsured expense is the community's master policy deductible. These deductibles can range from \$5,000 to \$10,000 per loss. In a case such as a burst hose due to non-compliance for a metal mesh hose to be installed, both the unit where the loss occurred and one or more units could also suffer damage. The uninsured expense could likely be much greater as a result of master policy exclusions. Although the master policy may still cover damage caused to neighboring units that had no role in the lack of compliance with the hose maintenance standard, the entire cost of the damages to the offending unit, which can certainly well exceed the deductible, may be uncovered and considered a common expense to be absorbed by the community.

It is important to note that one of the key provisions in CIOA, which is especially pertinent in this case, requires that a hearing with the unit owner must be held before a charge or fine can be assessed to a unit owner believed to be in violation of the maintenance standards. This gives the owner the opportunity to state their case before the association's board and explain any otherwise unknown extenuating circumstances.

HB 5588 would actually exempt the acts of a tenant, or the tenant's guests, in terms of violating maintenance standards. Basically, by deleting the words: "or tenant or a guest or a unit owner or tenant" from Section 1. Subsection (e) of section 47-257 of the general statutes, you would be saying that these individuals are not to be held accountable for their actions if they cause damage to the common interest ownership community's property. It seems unreasonable to believe that lessening of personal accountability is the intent of this bill.

Common interest communities do not have the opportunity to determine who rents the units. It is the owner of the unit that has the ability to determine who they chose as tenants, not the association. Consequently, the association board is, at times, left in the untenable position of dealing with non-compliant tenants. As in any other landlord/tenant situation, it is the expressed obligation of the tenant to comply with the terms of the lease. In the case of common interest communities, those terms should always include compliance with the rules and regulations of the community where the unit is being rented. Therefore, it is the responsibility of the unit owner to ensure that their tenant abides by all the requirements of living in that community, including maintenance standards and other regulations. To absolve the unit owners from any responsibility for the actions of his/her tenant would force the community as a whole to subsidize the owner investor's lack of accountability for the tenants in their unit(s).

It is important to note that while the investor owner is likely earning some income on the rental of the unit, the association reaps no additional benefit from this arrangement. Common interest communities are run as not for profit entities. They are a group of unit owners that have contractual agreements to maintain and protect the value of their property. Under the provisions of this bill, the owner investors would have an unfair advantage over the rest of the owner occupants of the community who would be held liable for damages while tenants, guests, etc. would not.

For the reasons stated above, we are in opposition of Raised Bill No. 5588 - An Act Concerning the Liability of Unit Owners for Certain Costs Under the Condominium Act and the Common Interest Ownership Act.

We would welcome the opportunity to further discuss with you this issue, or any other issues affecting common interest communities in Connecticut. Please do not hesitate to contact us with any questions or concerns. I can be reached at 860-633-5692 or email: [caictkmclain@sbcglobal.net](mailto:caictkmclain@sbcglobal.net).

Thank you for your consideration.

Respectfully submitted,

Kim McClain